



09 JUN 2008

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In re Application of COLLIER et al :
U.S. Application No.: 10/581,978 :
PCT Application No.: PCT/FR2004/050712 :
Int. Filing Date: 16 December 2004 :
Priority Date Claimed: 19 December 2003 : DECISION
Attorney Docket No.: 034299-000701 :
For: OPEN CELL POLYMER FOAMS HAVING :
A VERY SMALL DIAMETER, AND THE :
PRODUCTION METHOD THEREOF :

This is in response to applicant's "Petition to Acknowledge Original 371 Application Filing Date as Official Filing Date" filed 24 March 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 December 2004, applicant filed international application PCT/FR2004/050712, which claimed priority of an earlier France application filed 19 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired on 19 June 2006.

On 06 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 01 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 27 August 2007, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated 02 April 2007 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements.

On 24 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 06 June 2006. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 06 June 2006, serves as *prima facie* evidence that the declaration was received by the USPTO on 06 June 2006.

Accordingly, the Notification of Missing Requirements was sent in error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 01 February 2007 is hereby VACATED.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 27 August 2007 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 December 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 June 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which should indicate 06 June 2006 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and a corrected Filing Receipt, which should indicate 06 June 2006 as the "Filing or 371(c) Date".



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